

**Submitted by Association of Professional Canadian Consultants**

To the Ontario Changing Workplaces Review Committee

October 14<sup>th</sup>, 2016

Dear Sir or Madam,

On behalf of the Association of Professional Canadian Consultants (APCC), we wish to submit this comment in support of the ongoing “Changing Workplaces Review” and the Interim Report published by the committee of Special Advisors.

**About The APCC**

The APCC is a not for profit membership organization comprised of Independent Consulting businesses located across Canada, with a large concentration of our membership located in the Province of Ontario.

Our members are comprised of small professional services companies and individually are typically categorized as ‘Knowledge Workers’. They have chosen to operate largely as independent businesses and provide services across a broad spectrum of knowledge based consulting disciplines, including but not limited to;

- Information Technology
- Management Consulting
- Project Management and Systems Integration
- Financial Analysis and Accounting

Our Member represent true small business success stories, many of which were founded and developed here in Ontario. These organizations provide services to a large swathe of the Ontario economy, with active engagements covering all major industries and all levels of public sector government in the province.

**Our Sector is Thriving – Both in Canada and the United States**

As an association, we regularly survey our members regarding their decision to start their own independent consulting businesses and the findings they have shared with us are extremely different to those noted in the Interim Report.

When asked about their decision to forgo traditional employment and operate as an independent consultant, they note the following benefits;

- Ability to earn significantly higher incomes as compared to a salaried employee (commonly in excess of a 50% premium in total earnings)

- Superior control to manage their career development by accepting engagements of interest
- Superior ability to develop specialized consulting skills, thereby enhancing earnings potential and job security
- Flexibility to accept engagements only when desired

In short, the changing workplace in Ontario has created advantages for our members. Our membership does not face precarious employment but instead earn well in excess of the Provincial median income and have chosen to found their own independent consulting businesses for the significant advantages it offers them.

We believe this view of our membership community on the conditions in Ontario has been substantially missed by the research contained in the Interim Report and commitment of Special Advisors.

We also note that the Committee of Special Advisors drew heavily from research on practices in the United States, but likewise did not consider the similar trends towards freelance knowledge work that are occurring in this market as well. Current research published in 2016 estimate that in the United States freelance and independent contractor community between 40 million and 55 million individuals, placing it at roughly 30% of the overall labour market and over \$1.1 trillion in annual economic activity.<sup>i</sup>

<sup>ii</sup> Other insights from this research include;

- Consistent across 6 years of research 6 in 10 of all Independent workers surveyed indicated that working as an independent is their choice completely.<sup>iii</sup>
- 63% of independents plan to stay the course as an independent or build a larger business (22%)<sup>iv</sup>
- Nearly half of the independents surveyed indicated they make more money working on their own (vs. comparable employment).<sup>v</sup>
- 79% of surveyed individuals indicated that freelancing was **better** than working in a traditional job with an employer.<sup>vi</sup>

**Our members are concerned about Changes from the Ontario Workplace Review that will affect their ability to earn a livelihood.**

In our consultations with membership following the release of the Interim report, our members have communicated several concerns with the Committee's findings to us.

Principally, our members are significantly concerned with any policy changes that decrease the vibrancy of Ontario's market for contract professional services, either by driving Client companies to shift operations away from Ontario, or adding structural costs, perceived risks or administrative overhead to the management of such engagement locally in the Province.

Our member's Client organizations are commonly global organizations and make use of Offshoring in their business operations. Our members have survived and prospered despite this dynamic based on the quality of their work, and their ability to be cost effective on a total value basis.

Having said that, any factors introduced as part of the Change Workplaces Review (or through other government actions) that adversely affect the medium or large company sectors in Ontario will have a direct impact on our Members' ability to secure future engagements.

In addition to this overall concern, our members have shared that should an adverse change to the environment in Ontario cause the work to be moved out of the Province, they would have little choice but to depart Ontario so they can 'follow the work', should it be shifted to another territory in Canada, or even to locations abroad.

### **Specific Concerns with the Interim Report**

Our members have communicated to us a specific concern with the comments included in section 5.2 of the Interim Report regarding the Scope and Coverage of ESA. Our members have overwhelmingly communicated that they are self-employed by specific intention due to the advantages identified above, and fundamentally reject the undocumented and unreferenced 'anecdotal evidence' advanced in the report that they are in fact misclassified employees.

If we are to truly say that the Government of Ontario is a supporter of evidence based decision making, stronger evidence than unsourced and undocumented anecdotes is required.

We believe that this comment (included in section 5.2.1) and others like it included in the Interim Report, have not been tested in practice, and do not adequately reflect the main trends underway, as experienced by the APCC's membership, in the Ontario knowledge driven professional services ecosystem.

While several options have been advanced in section 5.2, there is no recognition of the positive aspects of independent contractor relationships for both Client and Contractor. Our Independent Consultant members are strongly voiced that they are independent by choice, and in order to fully realize the advantages of this decision, must retain clear freedom of association that allows them to form contracts with their Clients as independent subcontractors.

They would strongly oppose any format of 'Reverse Onus' legislation that would reduce or eliminate their ability to operate in their preferred format as independent sub-contractors. They would welcome an update to the policies regarding recognition of independent contractors to allow for clear freedom of association in their affairs and clear definition of what they can do to protect their independent status from subsequent reinterpretation.

Our members further indicate that they recognize that independent contractor relationships are not appropriate for all workers, and so any such policy update would need to balance freedom of association for individuals seeking independent status, while at the same time reserve the substantial protections offered under ESA for individuals in a vulnerable position where an independent contractor relationship is not appropriate.

Our members have further noted the comment in Chapter 1 regarding CPP and EI participation, and wish to affirm that they share an interest in participating in the CPP and EI programs, however these programs were established to suit a very traditional workforce structure organized around corporate employment, and have not been updated to accommodate increasing preference in the knowledge based consulting fields towards independently secured contract engagements. It is their view that should enrollment options be added that are friendlier to independent operators such as the membership of the APCC, they would welcome the opportunity to participate.

### **Encourage Opportunity**

We can all recognize that Ontario is not immune to the broader pressures being faced across all developed countries. With layoffs, downsizing and offshoring becoming normal features of the Ontario economy, our members have overwhelmingly communicated that they no longer trust in corporate employment for Job Security and have chosen a different path that provides them superior financial rewards and increased control over their careers.

As the Province of Ontario continues its Changing Workplaces Review, the APCC's membership wishes to affirm that while the changes in Ontario's economy present challenges, there is also significant opportunity.

Any changes contemplated through this process must also recognize and encourage this opportunity, as well as consider the vibrant contributions made by Ontario's community of Independent Contractors to the broader business ecosystem, both in terms of direct financial contributions as well as enhancing the overall competitiveness of the Ontario economy through the application of their talents and skills.

We believe this perspective may have been lost in the drafting of the Interim report and look forward to adding to a rich view of the topic through the ongoing consultation process.

Yours Truly,

The Association of Professional Canadian Consultants.

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<sup>i</sup> MBO Partners (2016) America's Independents A Rising Economic Force (6<sup>th</sup> Annual Report). Herndon, Virginia.

<sup>ii</sup> UpWork Inc (2016) Freelancing in America: 2016 (3<sup>rd</sup> Annual Report). Mountain View, California.

<sup>iii</sup> MBO Partners (2016) America's Independents A Rising Economic Force (6<sup>th</sup> Annual Report). Herndon, Virginia.

<sup>iv</sup> MBO Partners (2016) America's Independents A Rising Economic Force (6<sup>th</sup> Annual Report). Herndon, Virginia.

<sup>v</sup> MBO Partners (2016) America's Independents A Rising Economic Force (6<sup>th</sup> Annual Report). Herndon, Virginia.

<sup>vi</sup> UpWork Inc (2016) Freelancing in America: 2016 (3<sup>rd</sup> Annual Report). Mountain View, California.